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PATENT

GROUP 3700

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Bumbarger, et al.  
Serial No.: 09/408,861  
Filed: September 30, 1999  
For: Protective Multi-Layered Liquid Retaining Composite  
Group Art Unit: 1771  
Attorney's Docket No. N-4310  
Customer Number: 23456

*Sent by Francene*

VIA FACSIMILE - 703-746-3369

LETTER

(NOT FOR ENTRY - THIS IS NOT A RESPONSE TO AN OFFICE ACTION)

Assistant Commissioner for Patents  
Washington, DC 20231

Dear Sir:

An interview between Applicants' representative and Examiner Gibson is scheduled for 10:30, November 28, 2001, at the office of Examiner Gibson. An Applicant, Scott Bumbarger, will be attending the interview as well.

As requested by Examiner Gibson, this letter is to provide with a brief summary of the topic for discussion during the interview.

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This letter is not intended as a draft Amendment or Response, nor as a limit to what may be discussed during the interview. This letter is only to set forth a summary of issues for discussion in order to facilitate a more productive interview.

The time and attention of Examiner Gibson are appreciated. Applicants especially thank the Examiner for his flexibility in consideration for Mr. Bumbarger's and the undersigned's travel schedule.

#### Status of the Claims

As correctly stated on the Office Action Summary, Claims 31-65 are pending. Applicants note that Claims 47-65 are allowed. Claims 31-41, and 43 are rejected. Claims 42, and 44-46 are objected to.

#### Issues under 35 U.S.C. § 102

Claims 31, 37, and 43 are rejected under 35 U.S.C § 102(b) as being allegedly anticipated by Zafirogou (U.S. Patent No. 4,897,297).

With respect to this reference, Applicant and Applicant's representative respectfully submit that this reference will fail to disclose every feature of the claims (as per a proposed amendment). In this regard, Applicant and Applicant's representative plan to discuss the deficiencies with respect to this reference when compared to the claimed invention, and propose a minor amendment to clarify claims

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31 and 43. Claim 37 is dependent on Claim 31. The proposed amendment will be negotiable and will be directed to novel features of the cooling method of the present invention (with respect to '297) and unique methods of employing the composite material (with respect to '297).

More specifically, it is our position that the material of the '297 patent possess significant differences when compared with the claimed invention and that the material of the '297 patent is not designed to provide cooling by evaporation. Furthermore, the material of '297 must have a stretch layer. Based on the absorptive materials used with this product, there would be no motivation to make a vest or garment out of the prior art material as used as a compress.

Issues under 35 U.S.C. § 103

Claim 32 is rejected under 35 U.S.C § 103(a) as being allegedly obvious over the '297 patent in view of Silvas (U.S. Patent No. 5,755,110).

In view the amendment Applicant and Applicant's representative will propose with respect to Claims 31 and 43, this rejection may be moot, as claim 32 might be cancelled. Nonetheless, there are significant differences in the garment of Silvas and the present invention. These differences would indicate a lack of motivation to combine the article of the '297 patent with the garment of Silvas.

More specifically, the Silvas garment is a vest comprising strips that enclose a polymeric powder. The garment of Silvas does not disclose a fiber containing vest

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such as the one claimed in the present invention. With respect to the '110 disclosure, a crystalline polymer is dropped in the tubes that are sewn together as the garment. There is no batting material as claimed in the present invention. In short, Applicant and Applicant's representative will explain how the Silvas has a specific design because of the particles that goes in the tube sewn into the vest.

Claims 33 and 38 are rejected 35 U.S.C. § 103(a) as being allegedly obvious over the '297 patent.

With respect to this rejection it should be moot in view of the allowability of the base claim, Claim 31 in view of our proposed amendments and comments discussed above. These amendments will also be incorporated into Claim 38.

Claims 34-36 and 39-41 are rejected under 35 U.S.C. § 103(a) as being allegedly obvious over the '297 patent in view of Sawanishi et al. (U.S. Patent No. 4,562,114).

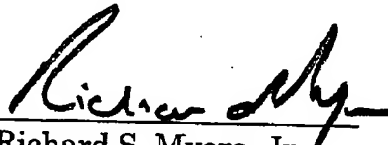
The fibers of Sawanishi et al. represent preferred fibers used in the claimed invention. However, these claims should be allowable based on the allowability of the base claims in view of the proposed amendment and comments.

If the Examiner has any questions concerning our proposed summary of the topics for discussion during the Interview, the application in general, or any of the cited references, please contact the undersigned at the number below. We look forward to visiting with the Examiner Wednesday morning at 10:30.

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Please charge any fees or credit any overpayment pursuant to 37 C.F.R. §§ 1.16  
or 1.17 to Deposit Account No. 23-0035.

Respectfully submitted,



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